

APPEAL NO. 032551
FILED NOVEMBER 10, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on September 9, 2003. The hearing officer resolved the disputed issues by deciding that the appellant (claimant) is not entitled to supplemental income benefits (SIBs) for the 9th, 10th, 11th, and 12th quarters. The claimant appealed, arguing that the hearing officer's decision is so against the great weight and preponderance of the evidence that it is manifestly unjust. The respondent (carrier) responded, urging affirmance.

DECISION

Affirmed.

Eligibility criteria for SIBs entitlement are set forth in Section 408.142(a) and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102 (Rule 130.102). The SIBs criterion in issue is whether the claimant made a good faith effort to obtain employment commensurate with her ability to work during the qualifying periods for the 9th, 10th, 11th, and 12th quarters. The claimant asserted that she had no ability to work due to her compensable injury. The hearing officer was not persuaded that the claimant met the requirements of Rule 130.102(d)(4). The hearing officer found that the claimant failed to submit a medical narrative showing how her compensable injury caused an inability to work during the qualifying periods for the 9th, 10th, 11th, and 12th quarters, and that the records of Dr. D and a functional capacity evaluation dated August 27, 2002, indicated that the claimant was able to perform sedentary work. Whether a claimant satisfied the good faith requirement for SIBs entitlement is a factual question for the hearing officer to resolve. Texas Workers' Compensation Commission Appeal No. 94150, decided March 22, 1994. The hearing officer is the sole judge of the relevance, materiality, weight, and credibility of the evidence presented at the hearing (Section 410.165(a)) and as the trier of fact, resolves the conflicts and inconsistencies in the evidence including the medical evidence (Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ)). We conclude that the hearing officer's decision is supported by sufficient evidence and that it is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **INSURANCE COMPANY OF THE STATE OF PENNSYLVANIA** and the name and address of its registered agent for service of process is

**TIM KELLY
AIG
675 BERING, 3RD FLOOR
HOUSTON, TEXAS 77057.**

Margaret L. Turner
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Edward Vilano
Appeals Judge